



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

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OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Michael B. Edwards
Environmental Quality Division
National Park Service
P.O. Box 25287
Denver, CO 80225

Dear Mr. Edwards:

In accordance with our responsibilities under Section 309 of the Clean Air Act and the National Environmental Policy Act (NEPA), the Environmental Protection Agency (EPA) has reviewed the U.S. National Park Service's (NPS) Final Programmatic Environmental Impact Statement (PEIS) for the Revision of 9b Regulations Governing Non-Federal Oil and Gas Activities.

This Final PEIS analyzes proposed revisions to the NPS's current nonfederal oil and gas rights Title 36 9B regulations. The 9B regulations govern all activities that are associated with the exploration and development of non-federal oil and gas rights located within park boundaries where access is on, across, or through federally owned or controlled lands or waters. The current regulations have been in effect for over thirty seven years and have not been substantively updated during that period. The proposed revisions are designed to address current issues with efficiency and enforcement and reflect current policies and industry advances, particularly with respect to protection of park natural and cultural resources, and human health and safety. The two action alternatives analyzed include the following elements: 1) eliminating two regulatory provisions that exempt 60% of the oil and gas operations in NPS units. All operators in NPS units would be required to comply with the 9B regulations; 2) eliminating the financial assurance (bonding) cap; 3) improving enforcement authority by incorporating existing NPS penalty provisions and giving law enforcement staff authority to write citations for noncompliance; 4) authorizing compensation to the federal government for new access on federal lands outside the boundary of an operator's mineral right; and 5) reformatting the regulations to make it easier to identify an operator's information requirements and operating standards that apply to each type of operation.

The EPA notes that, in response to our comments, the PEIS provides supplemental information on induced seismicity and disposal activities. In particular, we acknowledge the NPS's commitment to conduct site-specific analysis of proposals for injection wells for disposal activities to determine the potential for induced seismicity, and to use the 9B regulations to apply the necessary avoidance and mitigation measures.

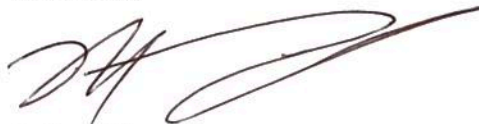
Additionally, the Final PEIS addresses EPA's recommendation to address the possibility of high concentrations of radioactive elements in waste waters and associated solids. The EPA notes that the NPS will include the requirements for proper testing and disposal of waste waters in any permit approved for development of non-federal oil and gas on NPS property.

Lastly, EPA is providing additional detailed greenhouse gas (GHG) and climate change comments based on the recently issued Council on Environmental Quality's (CEQ) Final Guidance on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews.

EPA would welcome the opportunity to engage further with you on this NEPA document and any subsequent ROD, including how best to address climate impacts at this stage of your analysis.

The EPA is available to answer any questions you may have regarding our comments. You can reach me at 202-564-7526, or you can contact Megan Barnhart of my staff at 202-564-5936.

Sincerely,

A handwritten signature in dark ink, appearing to read 'RT', with a long, sweeping horizontal line extending to the right.

Robert Tomiak
Director
Office of Federal Activities

Enclosure

DETAILED FEIS COMMENTS

Comments on Air Quality, Greenhouse Gases and Climate Change

The Council on Environmental Quality (CEQ) recently issued Final Guidance on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews (Guidance).^[1] This Guidance describes how agencies should meet their obligation under NEPA to consider the effects of greenhouse gas (GHG) emissions and climate change when evaluating proposed federal actions. The obligation to consider climate change includes programmatic NEPA documents, as well as subsequently tiered NEPA documents. As the Guidance points out, it makes sense to consider climate at the programmatic EIS stage, because that is the level at which these issues are more meaningfully reviewed, and it will save time in the end compared to evaluating the program through many individual permitting decisions. We strongly encourage the NPS to consider including an assessment of the potential range of GHG emissions and climate change impacts associated with the planned or foreseeably anticipated future actions that would prompt tiered documents for this PEIS and in the Record of Decision. All future PEIS reviews should include a robust consideration of climate change. Although the Final PEIS does not evaluate GHG emissions from the project or alternatives, it does contain a number of statements about climate change that are not a correct statement of agency climate change analysis obligations.

- It is not appropriate to draw conclusions from limited analysis or to dismiss the need to consider GHG emissions based on very limited analysis. The Final PEIS's conclusion that "because the proposed action would have negligible adverse or beneficial impacts related to greenhouse gas contributions and associated climate change, that aspect of climate change was dismissed from further evaluation" (p.19) is not appropriate and we recommend it be removed. Without a thorough analysis of the direct, indirect and cumulative GHG emissions associated with the alternatives reviewed in this PEIS, such a statement is not justified. Even if the preferred alternative reflects a reduction in GHG emissions from other alternatives reviewed or the status quo, EISs should still quantify the GHG emissions associated with each alternative. To enable a full comparison of GHG emissions among alternatives and consider appropriate mitigation, a thorough NEPA analysis should quantify both the direct and indirect GHG emissions caused by the project and the alternatives. The CEQ Guidance clarifies that indirect effects of proposed actions involving fossil fuel extraction also includes GHG emissions associated with refining and combustion of the fossil fuel being extracted (CEQ, pp.13-16).
- The Final PEIS also inappropriately characterizes the potential climate change impacts of the proposed action through the statement that "overall contributions to greenhouse gas emissions from operations on NPS lands are relatively low" (p. 19). Based on this context it appears this statement is making a comparison to national oil and gas operations. Such comparisons are not an appropriate basis for deciding whether or to what extent to consider climate change impacts under NEPA for all the reasons set out in the CEQ Guidance. We recommend not using these types of comparisons in future NEPA documents.

^[1] *Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews*. Footnote 42 p. 16. August 1, 2016.
https://www.whitehouse.gov/sites/whitehouse.gov/files/documents/nepa_final_ghg_guidance.pdf

DETAILED FEIS COMMENTS

Additionally, EPA's 2016 New Source Performance Standards (NSPS) Subpart OOOOa require control of GHG emissions (methane) and VOC in the oil and gas industry for new and modified sources. These standards may have an appreciable impact on the criteria pollutant and greenhouse gas emissions profile of oil and gas activities, particularly at the basin level. Therefore, EPA recommends that subsequent NEPA analyses of specific projects include mitigation with the potential to reduce GHG and VOC emissions.